REVENUE (195) Department.

SERIES.

[Despatch Abstract.]

Tax - Madras General Sales Tax Act, 1939 - Sales of Agricultural and horticultural produce grown on lands outside the province - Liability to tax Instructions - Position clarified.

Revenue Department
Sub:

Madras General Sales Tax Act, 1939 - Sales of agricultural produce grown in lands outside the province - Liability to tax - Instructions - requested.

Madras. Ref: C. 6872/48-2 Dated 8-11-1948

From

Khan Sahib Md. Sultan Mohideen Hussain Sahib Bahadur, B.A.,
Secretary to the Commissioner of Commercial Taxes.

Read: G.O. Ms. 2563 Revenue, dated 16.11.1941.
G.P. Rt. 1685, dated 19.3.1948.
From the Deputy Commissioners.

Reference:

In G.O. Ms. 2563 Revenue dated 10.11.41, the Government held that there is nothing in the Act to indicate that the exemption under Section 2(1) is restricted to persons who are resident in this province and ordered that the agent of a non-resident grower should be exempted from tax in respect of sales of agricultural or horticultural *produce effected by* him on behalf of his principals provided that he takes out a licence under Sec. 8 complies with its terms.

2. According to Sec. 5(v) of the Amended Act the sale of 'Tea' grown on their own land by sellers or grown on any land in which they have an interest is exempted from tax if the sale is for delivery outside the province and if delivery is actually so made.

3. In reply to a doubt raised regarding the applicability of Sec. 5(v) the Board held in its Proceedings recorded read above that this exemption applies only to exports of tea grown in this province and that agents of foreign growers are laible to tax under Sec. 14-A

4. It is now suggested by the Deputy Commissioner that the Board's view in respect of the applicability of Sec. 5(v) in administratively more convenient and that the exemption provided under Sec. 2(i) should also be restricted to agricultural or horticultural produce grown out of land in this province only. It is also represented that the practical application of the G.O. first read above leads to difficulties in that, neither the person nor the lands outside the province are subject to ~~out~~ authority and that it is not possible to enquire whether the produce was really from lands grown by the dealer or purchased by him outside the province It is also argued that the words 'any land' ~~the province~~ in Sec. 5(v) and Sec. 2(i) should be construed to have been used in contra-distinction to 'own land' and not to apply to land outside the province.

5. The Board also is of the opinion that it is true that the fact of 'a product being grown on his own land' is not capable of verification, if the lands lie outside this province. A liberal interpretation of G.O. Ms. 2563 Revenue dated 10.11.1941 will let the dealers also and cause consequent loss of revenue to the Government. The Board is however of the opinion that though 'tea' is neither an agricultural nor an horticultural produce according to the amended act and cannot there-

Revenue Department
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Madras General Sales Tax Act, 1939 - Sales of agricultural produce grown in lands outside the province - Liability to tax - Instructions - requested.

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2. According to Sec. 5(v) of the Amended Act the sale of 'Tea' grown on their own land by sellers or grown on any land in which they have an interest is exempted from tax if the sale is for delivery outside the province and if delivery is actually so made.

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5. The Board also is of the opinion that it is true that the fact of 'a product being grown on his own land' is not capable of verification, if the lands lie outside this province. A liberal interpretation of G.O. Ms. 2563 Revenue dated 10.11.1941 will let the dealers also and cause consequent loss of revenue to the Government. The Board is however of the opinion that though 'tea' is neither an agricultural nor an horticultural produce according to the amended act and cannot there-

fore stand on the same footing with such products.

Yet in view of the similarity in the wording of the Secs. 2(i) and 5(v) whatever view is taken regarding exemption under Sec. 2(i) for sales of agricultural or horticultural produce gfown by foreign growers and on lands outside this ~~rpvi~~ province should be equally applicable to exports from this province of 'tea' grown by foreign growers and that grown on lands outside this province. Otherwise sec. 5(v) should be suitably amended.

The Board requests suitable instructions in the matter if necessary, after obtaining legal opinion.

(Sd) x x
For Secretary to Commissioner of Commercial Taxes.

To

The Secretary to Government.
Revenue Department,
Madras.

GOVERNMENT OF MADRAS
ABSTRACT

Tax - Madras General Sales Tax Act, 1939 - Sales of agricultural and horticultural produce grown on lands outside the province - Liability to tax - Instructions - Position clarified.

PUBLIC WORKS DEPARTMENT (N)

G.O. Ms. No. 122 dated 19-1-1949
Read the following:

G.O. Ms. No. 2563, Revenue, dated 10.11.1941
From the Board of Revenue, Ref: T.6872/48-1
dated 8-11-1949

ORDER:

The Government agree with the Board of Revenue that the ruling given in G.O. Ms. No. 2563, Revenue, dated 10.11.1941 regarding exemption under section 2(i) of the Madras General Sales Tax Act, 1939 for sales of agricultural or horticultural produce grown by foreign growers on lands outside the Province should be held to apply to the exemption provided in section 5(v) of the Act, in respect of the exports from this Province of tea grown by foreign growers and grown on lands outside this Province.

2. The stipulation in the G.O. refund to in para 1 above that a licence under section 8 of the Act should be taken out by an agent of a non-reisent dealer is not correct as the licence under Section 8 is not applicable to agents non-resident dealers - vide note under rule 5(1) of the Madras General Sales Tax Rules.

The Board is requested to issue revised instructions to the Deputy Commissioners and Chief Transport Officers in the matter.

(By order of H.E. the Governor)

(Sd) x x
Secretary to Government

To the Board of Revenue,
Commercial Taxes.

/True copy/

OFFICE ASSISTANT
MADRAS RECORD OFFICE

mr. 25.9.